

COMMITTEE ON COMMUNITY IMPROVEMENT

February 10, 2004

Chairman O'Neil called the meeting to order.

The Clerk called the roll.

Present: Aldermen O'Neil, Shea, Garrity, Smith, Lopez

Messrs.: T. Fleming, K. Sheppard, K. Dillon, R. MacKenzie

Chairman O'Neil advised that the first purpose of the meeting is organizational in nature, and requests the Clerk to provide a brief overview regarding typical issues addressed by the Committee.

Deputy Clerk Johnson stated I would refer to Item 3 in your agenda, which talks about the jurisdiction over policy regarding vehicle maintenance and purchases, public works functions and services, programs funded by federal and state governments and such other matters as may be referred to the Committee. That is the basis of the wide span of this Committee.

Chairman O'Neil addressed Item 4 of the agenda:

Resolution and budget authorizations authorizing transfer and expenditure of funds in the amount of \$26,806.87 (EPD) for FY2003 CIP 712003 FBI Recuperator Project.

On motion of Alderman Shea, duly seconded by Alderman Lopez it was voted to approve the resolution and budget authorizations.

Chairman O'Neil addressed Item 5 of the agenda:

Resolution and budget authorization authorizing expenditure of funds in the amount of \$2,248.00 (State) for FY2004 CIP 412004 Speed Enforcement Program.

On motion of Alderman Garrity, duly seconded by Alderman Lopez it was voted to approve the resolution and budget authorization.

Chairman O'Neil addressed Item 6 of the agenda:

Resolution and budget authorization authorizing expenditure of funds in the amount of \$10,160.00 (State) for FY2004 CIP 411904 Project Safe Neighborhoods.

Alderman Shea moved to approve the resolution and budget authorization. Alderman Garrity duly seconded the motion.

Alderman Garrity asked where does the program take place and what is the location.

Chairman O'Neil stated I notice there is no one here from Police. Todd, do you have any information on it or maybe I can take a stab at it.

Mr. Fleming stated basically all I know about this program is that it is a Youth At Risk Baseball Program.

Alderman Lopez stated I believe that this is in conjunction with the Weed and Seed Program in that particular area.

Mr. Fleming responded I am really not sure.

Alderman Lopez stated it is one of those neighborhood programs that is involved.

Chairman O'Neil responded I believe you are correct and I believe somehow it is tied in with the Police Athletic League as kind of a joint thing and they are targeting some of the public housing sections of the City. I believe it is a fall baseball program but I am not 100% sure of that.

Alderman Shea asked as part of that it is a federal grant am I correct.

Chairman O'Neil answered that is my understanding.

Alderman Garrity stated well I guess I can't get answers to these questions but where are the games played, where is the league.

Mr. Fleming replied I can't answer those questions.

Alderman Garrity asked how do people get involved in it.

Chairman O'Neil asked can we move this along and make sure that the information gets distributed before the Board meeting.

Alderman Garrity asked can I have that information sent to me via courier.

Chairman O'Neil replied it will be sent to the entire Committee and probably the full Board.

Deputy Clerk Johnson stated I would just note that it is not federal funds that are being...it is being referred to as State of NH Department of Justice. I just wanted to clarify that. They may be federal funds that the state receives but it is coming through the state.

Chairman O'Neil called for a vote on the motion. There being none opposed, the motion carried.

Chairman O'Neil addressed Item 7 of the agenda:

Resolution and budget authorization authorizing expenditure of funds in the amount of \$225,920 (State DOT) for FY2002 CIP 712402 WIN-2 Relocation Design Project.

On motion of Alderman Smith, duly seconded by Alderman Garrity it was voted to approve the resolution and budget authorization.

Chairman O'Neil addressed Item 8 of the agenda:

Resolution and budget authorizations authorizing transfer and expenditure of funds in the amount of \$68,228.58 (EPD) for FY2003 CIP 713103 Sewer Infrastructure Project.

On motion of Alderman Lopez, duly seconded by Alderman Shea it was voted to approve the resolution and budget authorizations.

Chairman O'Neil addressed Item 9 of the agenda:

CIP Budget Authorization:
215703 Public Health Preparedness & Response – Revision #1

On motion of Alderman Lopez, duly seconded by Alderman Shea it was voted to approve the CIP budget authorization.

Chairman O'Neil addressed Item 10 of the agenda:

Communication from Ron Johnson of Parks, Recreation and Cemetery

Department, requesting the Committee recommend to the full Board that the additional \$4.4 million needed for the Clem Lemire Sports Complex (Memorial High School) be approved prior to the FY2005 CIP process.

Chairman O'Neil stated I would like to entertain a motion to table. Staff is still working with the Mayor on this and may need a few more weeks.

On motion of Alderman Shea, duly seconded by Alderman Garrity it was voted to table this item.

Alderman Shea asked we will get that information in about two weeks.

Chairman O'Neil answered hopefully within the next couple of weeks. I know that Finance and Planning staff are scheduled to meet with the Mayor again next week and hope to have information within the next couple of weeks and we can either...if timing becomes a concern we can call a special meeting to bring it up but in discussion with the five departments today they believe as long as it gets brought up in the March CIP meeting and we approve by the second meeting of the full Board in March that they will meet timelines that need to happen. As soon as they get information they will get it out to not only the Committee members but the full Board.

Chairman O'Neil addressed Item 11 of the agenda:

Communication from Deputy Police Chief Gary Simmons requesting to retain the former prisoner transport vehicle as an emergency response vehicle for the Police Department Civil Resolution Team.

Alderman Smith moved to approve the request. Alderman Shea duly seconded the motion.

Chairman O'Neil stated we always seem to have an issue in this City with plates. Do we have an extra set of plates for this vehicle? We will send it to the full Board and check that out.

Deputy Clerk Johnson responded this does not go to the full Board. It is an authorization by the Committee.

Chairman O'Neil replied well if there was an issue with plates they probably would have contacted us about that.

Deputy Clerk Johnson stated if the Committee authorizes them to keep the vehicle then the Clerk's Office would then allow them to get a set of plates for the vehicle.

Chairman O'Neil stated believe it or not that has been an issue here over the years – getting a set of license plates.

Chairman O'Neil called for a vote. There being none opposed, the motion carried.

Chairman O'Neil addressed Item 12 of the agenda:

Communication from Bruce Thomas, Engineering Manager, requesting approval of the City's Chronic Drain Program, as enclosed herein.

Alderman Shea moved to approve the City's Chronic Drain Program. Alderman Smith duly seconded the motion.

Alderman DeVries stated I was just wondering if we could get an explanation on 47 Morse Road. I just wasn't clear from the drawings as to what we were trying to accomplish there.

Mr. Kevin Sheppard, Deputy Public Works Director, stated at 47 Morse Road there have been concerns in the past because there is really no drainage in the area and a lot of the street drainage crosses the property at 47 Morse Road. In the past we have tried to obtain easements from the property owner but the previous property owner would not give us that easement. The current property owner realizes the problem. The house was built low and a lot of the City drainage is coming across it so they are willing to give us that easement to create that swale.

Alderman DeVries asked so they are giving you that easement and in exchange you are completing the work to take care of the drainage problem.

Mr. Sheppard answered correct.

Chairman O'Neil called for a vote. There being none opposed, the motion carried.

Chairman O'Neil addressed Item 13 of the agenda:

Discussion – Former Alderman Dick Crotty Monument @ Pine Island Pond Dam.

Chairman O'Neil stated I received a call from Ed Crotty, Alderman Dick Crotty's brother, indicating that a monument that had been dedicated to Dick no longer exists. The plaque was removed at some point and then the base that held the plaque is no longer there. It somehow is missing or I don't want to say missing, it may have gotten displaced during some construction or something but I contacted

Alderman DeVries and we met with representatives from Parks and Recreation, the Fire Department and the Airport and Highway was involved but they just couldn't get people down there that day and we just would like to ask that Highway in working with Parks & Recreation and the Fire Department and I think we would like to include the City Clerk's Office in that try to come up with a proper placing of the monument. It was way back on the dam. You couldn't see it from the road. The City had a right-of-way to it but we actually don't own the property to get to it so in honor of Alderman Crotty who served as the Alderman from Ward 8 and was a retired firefighter in this City we would like to see Highway try to coordinate a good spot near the bridge on Brown Avenue and meet all of the traffic requirements and all of that so that former Alderman Crotty can be properly honored. I am sure they will come up with a cost and we may have to come up with a few dollars for it but I want to thank the departments – Parks & Recreation, Fire and Airport who really didn't have any jurisdiction down there but still came down to see what they could do to help out to see if we can properly honor Alderman Crotty and ask Highway to come up with a little design for it and meet traffic regulations. Can we just get a...Alderman DeVries do you want to add something to that?

Alderman DeVries responded I was just going to comment because I did not notice the look on the City Clerk's face. I think the input from the City Clerk is to gain their design expertise. Leo Bernier was very involved in the design for Alderman Clancy's monument so we are hoping we can utilize his design expertise once again. Thank you.

Chairman O'Neil asked can we get a motion to allow the departments to proceed and come back with a recommendation to us.

On motion of Alderman Garrity, duly seconded by Alderman Smith it was voted to allow the Parks & Recreation, Highway, Airport, Fire and City Clerk's Department work together to come up with a proper monument to honor former Alderman Dick Crotty along with a place to put it and come back to the Committee with their recommendation.

TABLED ITEMS

18. Copy of a communication from Mr. Jabjiniak to Drew Weber regarding the relocation of Singer Family Park Field.

On motion of Alderman Lopez, duly seconded by Alderman Smith it was voted to remove this item from the table.

On motion of Alderman Garrity, duly seconded by Alderman Shea it was voted to refer this item to the Special Committee on Riverfront and Baseball Activities.

15. Communication from Kevin Sheppard submitting a draft policy/procedure for Fleet Management/Motorized Equipment.

On motion of Alderman Shea, duly seconded by Alderman Smith it was voted to remove this item from the table.

Deputy Clerk Johnson stated we have a communication from Kevin Sheppard with a draft policy procedure for the fleet management and we have an update dated December 2, which is in your agenda and there was a handout related to that, which we have also distributed to you and Mr. Sheppard can address it.

Chairman O'Neil asked, Mr. Sheppard, could you come forward and update us on the amendment that you are asking for.

Mr. Sheppard stated several months ago the Committee had asked for an updated MER policy. The department put one together and distributed it to various departments throughout the City, received comments and the December 2 policy is the latest version. What you have in front of you is just...letters B and C we would like to add to #4 within that policy. Through working with the Finance Department they have asked that that be in the policy. Right now it is not designated as to which department will control the City's continuing property records, which is part of the HTE system so we felt it best where the Highway Department receives the MER that we are the ones that control that and that is why that was inserted.

Alderman Garrity stated Kevin I am looking at Item 15. Does this change anything that is in the stuff we have in our agenda?

Mr. Sheppard responded it adds to it.

Alderman Lopez stated I just want to check here on #5. I think I asked a question once before of the City Solicitor in reference to travel and that is B2 under Item 5. They were going to check into what responsibility we have in carrying wives and kids.

Mr. Sheppard responded I remember after the last meeting I did have a discussion and I don't remember whether it was with Tom Arnold or Tom Clark but maybe Tom Arnold could speak to that. They had told me that they don't see that as being an issue the way it is written.

Deputy Solicitor Arnold replied I am reviewing it.

Alderman Lopez stated it must still be an issue if he is reviewing it. While we are waiting, Harry Ntapalis should have been involved in this also. There seems to be some disagreement.

Mr. Sheppard responded this was distributed to all departments, I believe, including the City Solicitor's Office and I believe that is the department that Harry works out of.

Alderman Lopez replied well maybe they didn't read it like they keep telling us we don't read things.

Deputy Solicitor Arnold stated if the Committee would like I could certainly discuss it with Solicitor Clark and Mr. Ntapalis and report back. It seems relatively innocuous but it does involve having family members in a car, which could result in some liability to risk as minimal as that may be. I know the policy says to school or while driving to work so it is relatively limited.

Alderman Shea stated I just wondered if somebody were to use a City car and they were transporting a member of their family do they have personal liability or is the liability that they have predicated upon the insurance that is on the vehicle.

Mr. Sheppard responded I honestly can't answer that. Again, that is a question for Harry Ntapalis as far as liability insurance issues go.

Alderman Shea stated I think that is what we are talking about. If I were a person working for the City and I transported a member of my family and on the way to school or whatever and something happened that is when we run into a problem I guess in terms of...

Mr. Sheppard interjected this was the language that was from the previous policy that was approved by the CIP Committee. I guess the assumption was that the departments did review this revised policy and the assumption was that the Board of Mayor and Aldermen had asked a lot of those same questions before the previous policy got approved. As Mr. Arnold said we can follow-up.

Alderman Garrity stated I don't know if it is the right time to discuss this but I would like to make a request that the CIP Committee get updated on all City vehicles that are used after hours to go back and forth to people's homes just to get an update of the number of vehicles and number of employees for all departments, including the Enterprises.

Chairman O'Neil stated we could maybe ask the Clerk to...Kevin you wouldn't have records of that would you.

Mr. Sheppard responded we could work with the Clerk's Office and send a letter to all departments asking them to clarify what employees use a City vehicle to go back and forth to work right.

Alderman Garrity replied yes Citywide including Enterprises.

Chairman O'Neil asked do we need a motion on that or is it understood what the Committee is looking for.

Deputy Clerk Johnson stated I think if the Committee is looking for that information certainly Kevin can do it. I might suggest that maybe that information can be had through Finance because they have to report it as a benefit on their W-4.

Chairman O'Neil stated well we will let the three departments work together. Just for the record, why don't you make a motion on that Alderman Garrity.

Alderman Garrity moved to have the Highway, Finance and City Clerk's Office work on a report of all employees who use City vehicles to drive to and from work, including Enterprises.

Alderman Lopez stated I just want to say something to Kevin. The question that I asked was directed at the last CIP Committee meeting a few months ago. That was for the City Solicitor and also you were here...it is not up to department heads to interpret the law and what the liability is so that is the question and for you to say that the department heads reviewed this means nothing to me because it is an interpretation of the law.

Chairman O'Neil replied I think his point was not only was the Solicitor's Office here but it also went to the Solicitor's Office as a department of the City.

Alderman Smith stated this was brought up before and like transportation of immediate family to work or school I don't think we should get involved with anybody. If a vehicle is assigned then that person should drive it and make other accommodations to get their children to school. I would say the liability would rest with the City. I think any insurance would not pay for injuries occurred by accidents in the car. I really think that this transportation of immediate family to work or school while driving to work should be struck out completely.

Chairman O'Neil asked where are you, Alderman.

Alderman Smith answered Page 3 under Item B, Travel. Years ago we had a department head get in a traffic accident in Canada. I am sure everybody is aware of it. It happened about 25 years ago. I think if we have vehicles for our employees they transport themselves back and forth to work and make other accommodations for their family or family needs. I will say that it was brought to the City Solicitor and something should have been done and a recommendation should have been made by them because they are supposed to be protecting us and they should have gotten together with Risk Management and this should have been resolved a long time ago.

Alderman Lopez stated I don't have any other problems with anything here except that Alderman Smith did mention something and if you accept the motion to scratch out Item B, #2...

Chairman O'Neil interjected the whole thing.

Alderman Lopez replied yes the whole thing. That way there would be no authorization for them to transport family members in City vehicles.

Chairman O'Neil stated I think before we entertain that motion I would like to ask Kevin Dillon come up to have a very brief discussion about a situation at the Airport that Kevin is looking for some direction from the Board with.

Mr. Kevin Dillon stated in reviewing this policy certainly the policy that the Highway Department has finalized here, the Airport agrees with but it has raised an issue of conflict with some of the employee classifications and their compensation package. When Assistant Directors at the Airport were hired, they were committed to have personal vehicle use as part of their compensation package. If I could have the Clerk distribute these. These are two letters for example that were issued to the employees at the time of hire to entice them into taking the job. These letters go back to 1994 and were certainly done under a prior administration. The Airport Director at the time was Fred Testa. If you look at the City policy, the Fleet Management Policy, it would certainly conflict with what you see are the commitments included in these letters as part of their compensation package.

Chairman O'Neil stated it is my understanding that there are five of these at the Airport and to the best of your knowledge they may be the only five in the City where there is an issue.

Mr. Dillon responded to the best of my knowledge that is correct. In fact, I should point out that one of the other Assistant Directors not referenced in those letters

was actually on a car allowance program when he was hired and was asked by the former Director to give up that car allowance in return for taking an actual vehicle.

Alderman Shea stated I would like to ask the City Solicitor a question. In an issue like this where a previous Director approved a particular type of policy, when we adopt a new ordinance what precedent is set by that and what is eliminated or how would you view this particular matter to the best of your legal ability?

Deputy Solicitor Arnold replied if I understand the question, separate and apart from the authority of Mr. Testa to enter into such an agreement I believe all five of these employees are non-affiliated employees, which means that these benefits so to speak are not provided as part of a labor contract. In that context if this Board were to change the policy that would be affected. Their pay or benefit package as any other City employee that is not part of the union can be modified.

Alderman Shea asked so what are you saying. Could you break it down a little bit further?

Deputy Solicitor Arnold answered I am saying that if the Board desires to do so it can change it.

Alderman Garrity stated I would hope that we could change it. I mean we have the former Airport Director here acting as a Human Resources Director or something and saying you can have a car and this is part of your compensation package. Will this stand up in court, Mr. Arnold?

Deputy Solicitor Arnold responded I guess that is hard to predict. I would assume that if the employees chose to bring legal action they would use it as an exhibit or evidence, however, as I said I don't believe any of these employees have contracts. They do have the letter and they could certainly make an argument that this was promised to them at the time but as I said it is my belief that the Board is also free to change that should they wish to do so.

Alderman Garrity moved to refer this issue to the Human Resources Committee.

Chairman O'Neil stated before I accept that I would like to get further input from the Committee.

Alderman Lopez stated I am wondering, Tom, if we instituted a policy from this point forward that this policy would no longer exist would the existing employees would be grandfathered.

Deputy Solicitor Arnold responded not necessarily but again if the Board chose to take that action it could.

Alderman Lopez asked, Mr. Dillon, could you tell me what the ramifications would be if we did do away with this versus grandfathering.

Mr. Dillon answered if you advise the employees or directed me to advise the employees that they no longer had this as part of their compensation certainly they could either accept it, the employees could elect to give up employment or they could probably pursue legal action I think is probably the most likely course. Again, I can't speak for them. I have no definitive knowledge. My recommendation would be to do just as you said – to grandfather these five individuals once they leave employment that is something that certainly as the existing Director I would not continue to extend this unusual personal use of a vehicle. So it would be limited to these five individuals.

Alderman Lopez stated I bring that up and Kevin you can jump in on this I think but with some of the City employees who are exempt employees and getting overtime once those people leave the overtime is supposed to stop. I think what happened in the Yarger Decker program is they grandfathered in the employees somewhere along the line and I am just wondering...I want to be fair to the employees and I am struggling. I certainly would like to go along with Alderman Garrity but I am struggling as to whether or not we would go through a legal challenge and if we went through a legal challenge of course you would have to pay for that right. I don't know.

Alderman Shea stated in discussing this with Kevin initially I kind of thought that might make sense but then again I am wondering if a precedent were established in a sense in 1994 and for whatever reason in the Year 2004 some department head decide to do the same type of thing and obviously they probably wouldn't but there is always that case and I am saying we never know about these unintended consequences of our actions. Although the initial thought was maybe it might be a good idea to just kind of let it go and obviously treat them as they have been treated since 1994 but then I think maybe we should examine it a little more closely and get a little more advice from the City Solicitor and if we are moving in the Year 2004 they have already benefited for 10 years. It is not as if we are taking it away for 1995 or 1998 or 2000. I really think that we probably would be opening ourselves up to some other situations that we are not aware of it we didn't examine it and say whether or not it might be in the best interest to say to these individuals look you are being treated fairly now maybe years back you weren't and this was compensation at that time but your salaries have increased as you indicated, Kevin, and therefore maybe it is time for us to really treat everyone the same way because in Human Resources we always go into this situation where if

you do it for Joe you do it for Pete and you have to do it for Susie and Alice and everyone else and that is where Yarger Decker became a problem. I don't want to bring that up but that is what I am saying. That is my comment.

Chairman O'Neil stated I have a few comments of my own. I appreciate Kevin's honesty with this. He was up front with the Board that there was an issue. I don't think he is necessarily pleased that these are conditions of their employment but they are. I will take the other spin that by making exceptions we are not setting a precedent. I think we are actually clearing up the issue and saying going forward there will be no more of these. The Charter changed in 1996 and I don't know if there are any records that the Commission did or did not approve this because I think it still would have been a Commission form of government at that time. What does concern me is Kevin has five people that he relies on to run their respective groups and are we sending a strong message to them about not supporting them through Kevin and what type of issue does that create down there. I am not pleased by this and until Kevin brought it to my attention I didn't even know this existed. I would vote tonight to support the Airport Director in grandfathering these five people and if those positions happen to become vacant by using this policy this would not continue with any new employees.

Alderman Garrity stated I am not pleased with any of this. Maybe there is a reason why some of them should have a vehicle but that is why I think it belongs in the Human Resources Committee. They can hash it out over there and see that everyone gets treated fairly over there. We are just not cutting all five out...maybe there is a reason that somebody needs a car but that is for the Human Resources Committee and the Human Resources Director to decide.

Chairman O'Neil stated I do know that Kevin spoke with Solicitor Clark. Kevin why don't you just update the Committee on what he said to you regarding jurisdiction by Committees.

Mr. Dillon responded he said whatever Committee looked at this it would have to be referred to the full Board for action so it would really just be a Committee report out of either Committee. I think just to respond to your question about the need for the vehicle there is no doubt...many of these vehicles at the Airport are used for emergency response purposes. We have to have that. Under Federal regulations I have to insure that there is a certain response to the Airport. Again, I do think the existing policy that is being put together by the Highway Department does cover that need. It does come down, though, to this added step of the additional personal usage that was committed at the time of employment. There is no doubt that they have to have these vehicles for emergency response. I would hope that we weren't discussing that.

Chairman O'Neil stated what I got from my conversation with Kevin was that the Solicitor had said we can either make the decision to refer it to the full Board or HR. If we address it, it just kind of speeds up the process but if the Committee feels that it is more appropriate in HR I don't necessarily have a problem with that.

Alderman Garrity asked in your opinion, Kevin, do all five of these employees need a car or are they required to have one by FAA regulations.

Mr. Dillon answered not all five.

Alderman Garrity stated I really think that it belongs in the Human Resources Committee.

Alderman DeVries stated I realize some of the answers that you might need to give me belong more in an executive session than in public but I am curious if first off in your opinion today these particular wages are competitive or are they reduced by the value of the personal vehicles that they have the use of.

Mr. Dillon responded my knowledge of other airport practices, having use of this vehicle makes their wages and the benefit competitive with other airports. I think if they were to lose the vehicle their wages...if you looked across the broad spectrum of airport positions probably would be less competitive by not having the vehicle.

Alderman DeVries asked during the institution of the Yarger Decker program there were several adjustments to salaries. Having reviewed that process if you have do you feel that there were enough adjustments made during that process that would offset the benefit that was granted when they took employment back in 1994 or prior to that?

Mr. Dillon answered my opinion is that salary wise their salary is competitive but what I am saying is that other equivalent positions at other airports typically have a vehicle as well.

Alderman DeVries asked so that is the usual and customary practice.

Mr. Dillon answered right but if you look strictly at their salary I would say that their salary is very competitive.

Alderman Porter asked would it be fair to say that the issue really is not even so much at this point the necessity of a vehicle but the fact that a commitment was made.

Mr. Dillon answered that is correct.

Alderman Porter asked so even if the HR Committee or department were to ascertain that while maybe one vehicle wasn't needed that still doesn't solve the problem of in the manager's minds reneging on a prior commitment.

Mr. Dillon answered I believe so. I believe that is the issue in a nutshell is that these folks feel that this is part of their compensation and to change that now would be the equivalent of a pay reduction.

Alderman Roy stated I have a question for Kevin Dillon but first a comment. I would strongly support this going to HR because I think there are issues that we are bringing up that may want to go to non-public session. I would ask Kevin that from my standpoint looking at this and not being on this Committee we would need to know what those fiscal impacts are. Alderman DeVries touched on the compensation and part of the benefit package. I would like to know what we would be looking at in terms of taxpayer dollars to turn around and remove the vehicles from service from these employees and what it would take to keep our airport employees happy and likewise if there are other departments that are impacted...I know that Kevin brings things to the forefront but if there are other departments that are impacted I would like to see what their fiscal impact would be as well.

Chairman O'Neil stated to the best of everyone's knowledge these are the only five employees in the City that have this agreement.

Mr. Dillon stated I think there is a point that really needs to be clarified. When you start talking about the fiscal impact or the tax impact there is not a tax impact. These are Airport funds and again as you know as an Enterprise we live and die within our revenue and expenses so there is no direct tax impact.

Alderman Shea stated I just want a clarification. The five individuals have vehicles. The point is that it is not so much that I am opposed to them having a vehicle. I think I go a little bit beyond that if I may and they cannot use it for personal use other than driving to and from their place of employment. My concern is that that is part of the ordinance that I am concerned with. I have no problem with these five individuals having a vehicle to go from where they work to where they live and back. That is obviously I would say not a problem. It is for personal use and the governing of the use of that vehicle. That is where I find we may be open to unintended consequences. Could you elaborate on that so that I can kind of understand...I mean I don't want to take a vehicle away from someone that has been doing the same work for you and obviously has to come back from Peterborough or from Hopkinton or so forth at a moment's notice so that is not a

problem. It is the governing of that. That is where I run into that. Could you elaborate on that Kevin?

Mr. Dillon replied I think you are correct. I would have difficulty if the Board directed that these vehicles be taken away completely from these employees. As I said earlier there is a requirement for me as Airport Director to insure a certain level of response. Can you imagine if there was an aircraft accident at the Airport where that response was necessary and I called these individuals to alert them...we do have an alerting system, I don't have to do it personally, to come to the Airport and respond and they say well I can't be there because my wife is shopping and when she gets back I will respond. That is the purpose of why they have the car to make sure that there is always an available vehicle for that emergency response. I agree with you 100% that in all cases they have to have the car for the emergency response. The question really comes down to should they be allowed to use that car beyond just commuting back and forth to work in the emergency response. I think as you look at a lot of situations there are a lot of entities that limit the use of the vehicle to that. The mitigating circumstance here or the different circumstance here is the fact that they were committed as part of compensation to go beyond that.

Alderman Shea responded and that is where we have to clarify the issue one way or the other.

Mr. Dillon stated exactly.

Chairman O'Neil stated I think Alderman Porter hit the nail on the head. There was a commitment made and that is the question before us.

Alderman Garrity stated it says here an Airport vehicle fully maintained, insured and fueled by the Airport. Now I am sure on the City side that is pretty much the deal to. We fuel the vehicles, insure them and maintain them?

Chairman O'Neil responded that would be my understanding yes.

Alderman Garrity replied some of these employees live pretty far distances from work. We are fueling their cars for personal use. I mean I gassed up by PT Cruiser today and it was \$21. It really becomes an issue of cost on the City side and the Enterprise side and I think it is something we really have to look at.

Alderman Lopez stated in this agreement in 1994 they were working 35 hours a week. Are they working 35 or more hours a week now?

Mr. Dillon answered I believe they are still on the 35 hour week. I would have to check on that though.

Alderman Lopez stated so they are on 35 hours a week and everyone else in the City is on 40 hours a week. That doesn't make sense but anyway I sort of agreement with the grandfather clause except I do have a problem on personal use. The agreement says, "this vehicle is understood to replace my personal vehicle and may be used for personal use." I do have a problem with that and the legality the same way I have with City employees. If they have their families in there, unless you know the answer, who is liable?

Mr. Dillon responded right now the Airport carries a separate insurance policy for vehicles. I think in some circumstances City vehicles are self-insured but at the Airport we have a separate insurance policy with an outside agency that would cover the vehicle operator and any occupants of the vehicle.

Alderman Lopez asked do we have the same thing on the City side. We are self-insured right? I don't mind grandfathering in except for the personal use. I don't think that people should be using vehicles for personal use.

Mr. Dillon answered again if you are not going to grant the personal use there is no need to grandfather because then it would be covered under the City policy. It only becomes an issue if you are permitting the personal use. If you are not going to permit the personal use then there is no need for any action. You would direct me to tell these employees that we are rescinding those agreements and then their use of vehicle for those emergency purposes would be covered under the City policy.

Alderman Lopez asked and on the advice of the City attorney he said we could do either one. Then I make the motion that we rescind the agreements.

Chairman O'Neil replied that is not what he said. What he said was this Committee could address it or the HR Committee could address it as long as it was referred to the full Board.

Alderman Lopez responded and that is what I want to do. I want to refer it to the full Board with the recommendation...

Chairman O'Neil interjected well I am not going to entertain a motion right this second because we have some others looking to speak.

Alderman Roy stated this question is directed at Kevin Sheppard. Kevin the limited local travel, Item B #2 that we are discussing that says "transporting of

immediate family to work or school while driving to work” how much of an impact would that have on employee performance? How much is this used in your review of this?

Mr. Sheppard replied quite honestly I can speak for the Highway Department. I don't know of any employees that use their vehicles for transportation of their children to school. Typically the people that were assigned cars their children are all grown. I don't see it as a huge impact to the Highway Department but there may be other City departments where it could affect them. You know if someone is coming to work in the morning and their wife goes to work at 6 AM and they have to be to work at 8 AM a lot of people may drop their children off at school on their way but I can only speak for the Highway Department.

Chairman O'Neil stated and if I may we don't know what impact that has and if we have to start leaving vehicles at various departments does that create a parking issue. That has never been asked before. That has been in there and that hasn't come up before the Committee has it, that issue?

Mr. Sheppard responded right now a lot of departments use the Manchester Transit Authority for storage of vehicles. There is limited space down there and I believe some people take them home so they can wash, vacuum and maintain their cars. I am not too sure if people take them home for exclusive use of driving their children to school. I think it is more convenient for the department and the employee.

Chairman O'Neil stated let's break this out into two different issues that we have before us. The first one is the issue regarding the five Airport employees. I will entertain a motion. My recommendation is that we grandfather the employees and that if any of them end up leaving the policy will be in effect then. I believe we made a commitment as Alderman Porter said but I will entertain a motion.

Alderman Garrity moved to refer the agreements with the Airport employees to the Committee on Human Resources. There was no second.

Alderman Shea stated the draft that you have presented to us has not really been voted on yet and is still in the draft form correct.

Mr. Sheppard replied correct. It is a draft that is before you.

Alderman Shea stated my thoughts run along these lines. Maybe if the Director could meet with these five individuals if he hasn't already...he may have and explain to them that there was a lengthy discussion concerning this particular issue, there is no objection to their continuous use of their vehicles but because of

a new ordinance that may be forthcoming the possibility exists that they may not be able to use the vehicles for personal use. Those are my thoughts on the matter at this stage.

Chairman O'Neil stated what is on the table right now is the draft policy as presented to us.

Alderman Lopez stated my recommendation, Mr. Chairman is this. I am not too sure about grandfathering this in. It all depends on what Harry Ntapalis and the City Solicitor can give us in regards to Item 5, B regarding transporting immediate family members to work and school and whether we have any liability. Now with all due respect to the Airport they have all of the money they need in order to do whatever they have to do and the City doesn't. I don't mean that in a derogatory way Mr. Dillon but you do have the necessary funds that you spend on the Airport and it is not taxpayer's money that is included in the tax rate. My recommendation would be this, Mr. Chairman. Could we table this until we get a written ruling on this particular paragraph and once that is done maybe we can take up the letter because I would not want to do way with the letter until I have the legal interpretation and the liability interpretation. Maybe Mr. Dillon can get with Harry Ntapalis and the City Solicitor and maybe there is a difference because he has his own private insurance to give it a fair hearing. That is what I would like to do.

Chairman O'Neil replied before I accept that motion Alderman Smith did have his hand up.

Alderman Smith stated I concur. I really think that what we have to do is send it back to Harry and he can tell us either yes or no they can transfer youngsters insurance wise. I will second the motion to table.

Alderman Shea stated as part of this ordinance it just reads "disposition of vehicles and equipment shall be conducted as is consistent with other ordinances and City policy so we have to be careful that we don't make a City ordinance or City policy and then decide that we are going to make exceptions to this. That is what I think my concern might be so we really have to get all of the facts first before we make decisions regarding the implementation of the ordinance. That is what I am trying to indicate.

Chairman O'Neil replied I don't disagree with what you are saying but I do strongly believe that these are the only five out there. They will be the only five going forward and if any of them happen to leave their service with the City it won't be an issue. There has been a motion made by Alderman Lopez and seconded by Alderman Smith to table and ask for clarification from the City

Solicitor's Office in conjunction with the Risk Manager on Section 5, Item B2. Is that correct?

Alderman Lopez responded that is correct.

Chairman O'Neil stated we are not doing anything with the policy tonight. We are putting it back on the table.

Deputy Clerk Johnson stated before you call for the vote I just want to clarify because there have been two separate discussions regarding this 5, B2. One is with regards to the Airport personnel and the other is on the City tax side because people were asking for liabilities on the tax side versus the Enterprise side or whatever you want to call it so I guess in the response that you get from Mr. Ntapolis are you looking for that to be separated out as well in two separate issues.

Chairman O'Neil replied that would make sense. I would hope that we would not have separate policies for Enterprise systems as we do for general fund systems.

Deputy Clerk Johnson stated well the question about liability is different between the tax side and the Airport side and that is why I raised the issue.

Chairman O'Neil responded there is but you have to be careful saying Enterprise because we have a number of other Enterprises in the City. Are you asking...is the point that there may be a specific insurance situation at the Airport? Is that correct?

Deputy Clerk Johnson stated I guess that would be the question – if you wanted him to break out the Airport from the rest of the departments.

Chairman O'Neil replied well Mr. Dillon mentioned that they have a specific policy that he believes addresses this issue.

Mr. Dillon stated if I could clarify that point we do have a separate policy simply because there are a number of outside organizations that operate vehicles on our behalf. For example, all of the Fire vehicles at the Airport are owned by the Airport but they are operated by a private contractor. That is why we need separate insurance but it covers all of our vehicles so that the operation of any of our vehicles by people other than City employees is covered and it is really generated by the Police. Rockingham County operates police vehicles that the Airport owns so they are City vehicles operated by others. That is why we are different and we have that different policy.

Chairman O'Neil asked Carol your point is that we should just make sure that there aren't any other situations like that out there.

Deputy Clerk Johnson answered I guess we will just refer the whole thing to the Solicitor and Mr. Ntapalis.

Chairman O'Neil called for a vote. The motion carried with Alderman Garrity being duly recorded in opposition.

Chairman O'Neil asked that they get back to the Committee as soon as possible and not have this issue drag on.

Mr. Dillon stated I want to clarify an answer that I gave Alderman Lopez because I think I was confused on what he was asking. The Assistant Directors...in that letter it is referenced that they have a 35-hour work week but that was prior to Yarger Decker. They are working a 40-hour work week at this point.

Alderman Garrity asked were these two items tabled also or were these just things that the Airport Director brought in. They really weren't part of the draft. I am just curious if these two items were tabled.

Deputy Clerk Johnson answered they were just items of information.

Alderman Garrity moved to rescind the sentence on the Airport agreements that says they can use the vehicles for personal use.

Alderman Lopez stated on my motion when I said that I didn't want to take any action on that until we had the final determination made by the City Solicitor I was implying that there would be no action on those two letters tonight.

Chairman O'Neil responded that is the way I interpreted it as well, that we weren't taking any action one way or the other on those items tonight. We were going to wait until we got information back from the Solicitor and Risk Manager.

Alderman Garrity stated well I will withdraw my motion but I want some information by the next full Board meeting as to who at the Airport is required to have a vehicle for FAA regulations and who has vehicles and I would hope that we have the information on the City side as to who has vehicles in a couple of weeks.

Chairman O'Neil responded I think we need to give everyone a couple of weeks to gather that information. I am not sure how readily it is available. Just to make it

clear you are not just asking for this information from the Airport but from all City departments.

Deputy Clerk Johnson stated could I suggest that that information be gathered with the other information that Kevin is getting for the next meeting.

Chairman O'Neil responded yes that was a motion we made to have the Highway Department work with the Clerk and Finance to gather that information.

Alderman Garrity stated I will shorten that request. I want to know who is required by FAA regulations to have a vehicle at the Airport. Can you get that by the next meeting?

Mr. Dillon responded sure but I want to clarify what it is that you are really asking for. There isn't a specific FAA regulation that says this person and this person and this person have to have a vehicle. I have to have a response separate so it is the judgement of the City as to how many employees should have an emergency response so if I understand what you are asking it is how many have an emergency response requirement versus a compensation.

Chairman O'Neil stated Bob on Item 6 Alderman Shea was suggesting that you might have a little bit of knowledge on it. We passed it looking for some information on who is involved, etc.

Mr. Robert MacKenzie replied I don't have any additional information right now but I know that is a project that we can find out about fairly quickly.

Chairman O'Neil asked can we get that information to the Board by the end of the week.

Mr. MacKenzie answered sure.

14. Derryfield Park Rehabilitation Phase II.

This item remained on the table.

16. Derryfield Country Club Project.

Alderman Lopez moved to remove this item from the table.

Chairman O'Neil stated I would like to make a recommendation. I know that Parks and Recreation has been meeting with Highway, Finance and the Solicitor's Office to explore options going forward based on the existing contracts that we have and what are our legal options and financial options. I do know that they have met and will meet again and will report back to the Committee as soon as they have some information. Am I correct on that Ron? I really don't see any need to pull it off the table. They are trying to look at all options now to see what we can do moving forward.

Deputy Clerk Johnson stated we did reserve some time on February 24 if the departments are ready to report.

Chairman O'Neil stated so my suggestion would be to let the departments continue to look at options and costs and all of that.

17. Communication from Robert MacKenzie, Planning Director, regarding a request that the City consider making various safety and aesthetic improvements along Dean Avenue at a cost of \$9,800.

Chairman O'Neil asked, Mr. Sheppard have you had a chance to look at Item 17.

Mr. Sheppard answered that was the item I was just talking to the Planning Director about. I was at the meeting and quite honestly I don't remember it being referred back to Public Works. I was just trying to verify what was done.

Chairman O'Neil stated well we can keep it on the table and ask that it be reviewed one more time.

Alderman Lopez stated at the last meeting it was brought up and you didn't know anything about it.

Mr. Sheppard responded I think we discussed the costs and whether it was a reasonable cost for that work. I believe we discussed that it was a reasonable cost but I am not too sure whether the question was should the City get involved in getting that done.

Mr. MacKenzie stated I think there was just some concern that the Highway know about the project and that they were happy with the materials that were being proposed and basically had oversight on the project. They are asking for some funds to do that as well and we have not had the time to identify any funds for that project.

Mr. Sheppard stated I will work with the Planning Department.

Chairman O'Neil stated this item will remain on the table then.

There being no further business, on motion of Alderman Garrity, duly seconded by Alderman Shea it was voted to adjourn.

A True Record. Attest.

Clerk of Committee